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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,244	06/06/2006	Isabelle Dubois-Bugger	38624-100578	8846
23644	7590	03/10/2009		
BARNES & THORNBURG LLP				EXAMINER
P.O. BOX 2786				USELDING, JOHN E
CHICAGO, IL 60690-2786			ART UNIT	PAPER NUMBER
			1796	
			NOTIFICATION DATE	DELIVERY MODE
			03/10/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10552244	6/6/2006	DUBOIS-BRUGGER ET AL.	38624-100578
<b>EXAMINER</b>			
JOHN USELDING			
<b>ART UNIT</b>			<b>PAPER</b>
1796			20090224

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**Commissioner for Patents**

The reply filed on 1/23/2009 is not fully responsive to the prior Office Action because: no response has been made to the art rejections present in the Final Rejection. If it is Applicants' position that their approach to responding would have been predicated on the status of the claims, i.e. finally rejected versus non-finally rejected, it is submitted that, if they questioned the propriety of the final rejection (which they clearly did), they might have contacted the Examiner to discuss this matter prior to filing a reply. Since the period for reply set forth in the prior Office action has expired, this application will become abandoned unless applicant corrects the deficiency and obtains an extension of time under 37 CFR 1.136(a).

The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

The applicant has argued that the Final Rejection was improper. The applicant had amended the claims and the Office was proper in the finality of the rejection. The claims were originally for a use of polyoxalkylene polycarboxylates, which is not even a proper statutory subject matter, and then amended the claims to change the statutory subject matter to a method of making a concrete composition. This is a major change in the claimed subject matter. In the original claims the use of the polymer in the concrete composition with a particular slump value was merely an intended use of the polymer and not a positive recitation of a claim limitation. In the amended claims there is a positive recitation of a method of preparing a concrete composition with a particular slump value. Also there is an additional step of adding one or more of the polymers to the concrete that was not in the original claims. The scope of the claims has been significantly changed and therefore new art rejections are proper.

/Marc S. Zimmer/  
Primary Examiner, Art Unit 1796